

SIKKIM

GOVERNMENT



GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Wednesday, 30th January, 2008

No. 16

**SIKKIM INFORMATION COMMISSION
LOWER SECRETARIAT
GANGTOK – 737101**

No. 286 /SIC/2008

Dated: 25th January, 2008

NOTIFICATION

THE SIKKIM INFORMATION COMMISSION (MANAGEMENT) REGULATIONS, 2008

In exercise of the powers conferred by section 15(4) of the Right to Information Act, 2005 (Act 22 of 2005) and all other provisions in the Act enabling in this behalf, the Chief Information Commissioner hereby makes the following Regulations for management of the affairs of the Sikkim Information Commission so as to enable it to function effectively.

Chapter-I:

Short Title and Commencement

- (i) These Regulations may be called "The Sikkim Information Commission (Management) Regulations, 2008.
- (ii) They shall come into force with effect from such date as the Chief Information Commissioner may by order specify.
- (iii) Appeals and Complaints which have already been filed before the date of commencement of these Regulations and have been found in order and are already registered before this date will be proceeded with as before and shall not abate for any infirmity therein.

2. Definitions:- In these Regulations unless the context otherwise requires, -

- (a) "Act" means the Right to Information Act, 2005 (Act 22 of 2005);
- (b) "Appellant" includes a complainant.
- (c) "Commission" means the Sikkim Information Commission;
- (d) "Chief Information Commissioner" means the Chief Information Commissioner appointed under the Act.

- (e) "SPIO" means an officer designated by a public authority under Section 5(1) of the Act and includes an Assistant SPIO so designated or notified under Section 5(2) of the Act and it also includes —
 - (i) an officer to whom an application submitted under the Right to Information Act seeking certain information is transferred under Section 5(4) of the Act; and
 - (ii) any officer to whom the request for information from an applicant is submitted by the SPIO either for approval or for orders or for disposal; and
 - (iii) the Head of the public authority in case no SPIO/PIO is appointed or notified;
- (f) "Decision" includes an order, direction or determination of an issue.
- (g) "First Appellate Authority" means an authority so appointed or notified by the public authority under the Act and includes a head of the office or the head of the public authority if no first appellate authority is appointed or notified.
- (h) "Information Commissioner" means an Information Commissioner appointed under the Act and a "Designated Commissioner" means an Information Commissioner designated by the Chief Information Commissioner to deal with appeals or complaints assigned to him by a general or special order.
- (i) "Prescribed" means prescribed by or under the Act or under the Rules or Regulations.
- (j) "Records" mean the aggregate of papers relating to an appeal or complaint including pleadings, rejoinders, comments, proceedings, documentary or oral evidence, decision, orders and all other documents filed with or annexed to an appeal or complaint or submitted subsequently in connection with such appeal or complaint.
- (k) "Registry" means the Registry of the Commission comprising the Registrar, Additional Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar.
- (l) "Registrar" means the Registrar of the Commission and unless the context otherwise requires includes an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar.
- (m) "Regulation" means Regulation framed herein;
- (n) "Representative" means a person duly authorized by or on behalf of any of the parties to the proceedings and may include a Legal Practitioner.
- (o) "Respondent" includes a third party or a party impleaded by the Commission.
- (p) "Rules" mean the Rules framed by the State Government under section 27 and by the Speaker of the Sikkim Legislative Assembly and the Chief Justice of the High Court of Sikkim under section 28 of the Act
- (r) "Section" means section of the Act;
- (s) Words and expressions used herein but not defined shall have the meaning assigned to them in the Act or in the Rules.

CHAPTER-II:

Officers of the Commission and their function

- 3. Appointment of Registrar:-** The Commission may designate one or more of its officers in the Commission to function as Registrar of the Commission. It may also designate other officers of the Commission to act as Additional Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar and provide other staff that may be necessary to assist the Registrars in the performance of their duties and responsibilities.
- 4. Powers and functions of the Registrar:-**
- (i) The Registrar shall be the Chief Executive of the Commission on the judicial side. Any communication addressed to him will be deemed to be addressed to the Commission and the Commission will be represented by him in all judicial matters.
 - (ii) The Registrar shall discharge his functions under the control and superintendence of the Chief Information Commissioner.
 - (iii) All records of the Commission shall be in the custody of the Registrar.
 - (iv) The Official Seal of the Commission shall be kept in the custody of the Registrar.
 - (v) Subject to any general or special directions of the Chief Information Commissioner, the Official Seal of the Commission shall be affixed to any order, summons or other process under the authority of the Registrar.
 - (vi) The Official Seal of the Commission shall not be affixed to any certified copy issued by the Commission save under the authority of the Registrar.
 - (vii) The office of the Registrar shall receive all applications, appeals, complaints, counter statements, replies and other documents.
 - (viii) The Registrar shall decide all questions arising out of the scrutiny of the appeals and complaints before these are registered.
 - (ix) The Registrar may require any application, appeal, counter statement, replies presented to the Commission to be amended in accordance with these Regulations and direct any formal amendment of such records.
 - (x) The Registrar shall fix the date of hearing of appeal, complaint or other proceedings and shall prepare and notify in advance a cause list in respect of the cases listed for hearing.
 - (xi) The Registrar will decide questions relating to extension of time in respect of filing of counter statement, reply, rejoinder, etc.
 - (xii) The Registrar may, on payment of a fee prescribed for the purpose, grant leave to a party to the proceedings to inspect the record of the Commission under supervision and in presence of an officer of the Commission.
 - (xiii) Copies of documents authenticated or certified shall be provided to the parties to the proceedings under the authority of the Registrar.

- (xiv) The Registrar shall communicate the decisions, orders or directions of the Commission to the concerned person/persons, and all such communications signed or authenticated by the Registrar or under his authority shall be deemed to be the communication from the Commission.
- (xv) The Registrar shall be responsible for ensuring compliance of the orders, directions or decisions passed by the Commission and to take all necessary steps in this regard.
- (xvi) The Registrar shall ensure that decency, decorum and order is maintained during hearing of an appeal, complaint or any other proceedings maintained and shall take all necessary steps in this regard.
- (xviii) The Registrar shall exercise all such powers and discharge all such functions as are assigned to him by these Regulations or by the Chief Information Commissioner from time to time.
- (xix) The Registrar shall assist all Information Commissioners in discharge of their functions.
- (xx) The Additional Registrar shall have all the powers conferred on a Registrar and will exercise all the functions of the Registrar under his guidance.
- (xxi) The Registrar may with the approval of the Chief Information Commissioner delegate to a Joint Registrar, Deputy Registrar or Assistant Registrar any function required to be performed under these Regulations.

CHAPTER III:

Working Hours and sittings.

- 5. Subject to any order by the Chief Information Commissioner, the office of the Commission will be open on all working days from 10:00 AM to 4:00 PM and follow the almanac of the State Government.

CHAPTER – IV:

Registration, Abatement or Return of Appeal.

- 7. **Appeal or complaint etc. to be in writing:-** Every appeal, complaint, application, statement, rejoinder, reply or any other document filed before the Commission shall be typed, printed or written neatly and legibly and in double line spacing and the language used therein shall be formal and civilised and should not be in any way indecent or abusive. The appeal, complaint or an application shall be presented in at least two sets in a paper-book form
- 8. **Contents of appeal or complaint:-** (1) An appeal or a complaint to the Commission shall contain the following information, namely:-
 - (i) name, address and other particulars of the appellant or complainant, as the case may be;
 - (ii) name and address of the State Public Information Officer (SPIO) or the State Assistant Public Information Officer (SAPIO) against whom a complaint is made under Section 18 of the Act, and the name and address of the First Appellate Authority before whom the first appeal was preferred under Section 19(1) of the Act.
 - (iii) particulars of the decision or order, if any, including its number and the date it was pronounced, against which the appeal is preferred;

- (iv) brief facts leading to the appeal or the complaint;
 - (v) if the appeal or complaint is preferred against refusal or deemed refusal of the information, the particulars of the application, including number and date and name and address of the State Public Information Officer to whom the application was made and name and address of the First Appellate Authority before whom the appeal was filed;
 - (vi) prayer or relief sought;
 - (vii) grounds for the prayer or relief;
 - (viii) verification by the appellant or the complainant, as the case may be; and
 - (ix) any other information which may be deemed as necessary and helpful for the Commission to decide the appeal or complaint.
- (2) The contents of the complaint shall be in the same form as prescribed for the appeal with such changes as may be deemed necessary or appropriate.

9. Documents to accompany appeal or complaint:-

Every appeal or complaint made to the Commission shall be accompanied by self attested copies/photo copies of the following documents, namely:-

- (i) The RTI application submitted before the SPIO along with documentary proof as regards payment of fee under the RTI Act;
- (ii) The order, or decision or response, if any, from the SPIO to whom the application under the RTI Act was submitted.
- (iii) The First appeal submitted before the First Appellate Authority with documentary proof of filing the First Appeal.
- (iv) The Orders or decision or response, if any, from the First Appellate Authority against which the appeal or complaint is being preferred;
- (v) The documents relied upon and referred to in the appeal or complaint;

10. Presentation and scrutiny of appeal or complaint:-

- (i) The Registrar shall receive any appeal or complaint petition addressed to the Commission and ensure that
 - (a) the appeal or the complaint, as the case may be, is submitted in prescribed format;
 - (b) that all its contents are duly verified by the appellant or the complainant, as the case may be;
 - (c) that the appeal or the complaint is in accordance with the Regulations.
- (ii) The Registrar shall also ensure that the appeal or the complaint petition contains copies of all required documents such as
 - (i) RTI application
 - (ii) Receipt of the RTI Application

- (iii) Proof in regard to payment of fee/cost, if any;
- (iv) Decision/reply etc. from the SPIO, if any;
- (v) Appeal to the 1st Appellate Authority;
- (vi) Decision of the 1st Appellate Authority, if any.
- (iii) The Registrar shall scrutinize every appeal/complaint received and will ensure —
 - (a) that the appeal or the complaint petition is duly verified and required number of copies are submitted;
 - (b) That all the documents annexed are duly paginated and attested by the appellant or the complainant.
 - (c) That the copies of the documents filed and submitted are clear, distinct and legible;
 - (iv) That the Registrar will return any such appeal or the complaint if it does not meet the requirement or conform to the standard as set out above and permit its resubmission in proper form.
 - (v) The Registrar may reject any such appeal or complaint petition —
 - (a) if it is time-barred; or
 - (b) if it is otherwise inadmissible; or
 - (c) if it is not in accordance with these Regulations.

Provided that no such appeal or complaint petition shall be rejected by the Registrar unless the concerned appellant or the complainant is given an opportunity of being heard. The decision of the Registrar in regard to the issue of maintainability of an appeal or a complaint shall be final.

- (vi) All appeals and complaints not rejected or returned as above and found in order shall be registered and a specific number will be allocated.
- (vii) The Registrar or any other officer authorized by the Commission shall endorse on every appeal or complaint the date on which it is presented.
- (viii) The appeals and complaints shall bear separate serial numbers so that they can be easily identified under separate heads.
- (ix) If any appeal or complaint is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant or complainant to rectify the same in his presence or may allow two weeks time to rectify the defect. If the appeal or complaint has been received by post and found to be defective, the Registrar may communicate the defect(s) to the appellant or complainant and allow him three weeks time from the date of receipt of communication from the Registrar to rectify the defects.
- (x) If the appellant or complainant fails to rectify the defects within the time allowed in clause (ix) above, the appeal or complaint shall be deemed to have been withdrawn.
- (xi) An appeal or complaint which is not in order and is found to be defective or is not as per prescribed format is liable to be rejected. Provided that the Registrar may, at his discretion, allow an appellant or complainant to file a fresh appeal or complaint in proper form.

11. Filing of Counter Statement by the State Public Information Officer or the First Appellate Authority:- After receipt of a copy of the appeal or complaint, the State Public Information Officer or the First Appellate Authority or the Public Authority shall file counter statement along with documents, if any, pertaining to the case. A copy of the counter statement(s) so filed shall be served to the appellant or complainant by the SPIO, the First Appellate Authority or the Public Authority, as the case may be.

12. Posting of appeal or complaint before the Information

Commissioner:-

- (i) An appeal or a complaint, or a class or categories of appeals

or

complaints, shall be heard by the Chief Information Commissioner or a Division Bench of two Information Commissioners or a full Bench of three or more Information Commissioner as decided by the Chief Information Commissioner by a special or general order issued for this purpose from time to time.

13. Amendment or withdrawal of an Appeal or Complaint:

The Commission may in its discretion allow a prayer for any amendment or withdrawal of an appeal or complaint during the course of its hearing if such a prayer is made by the appellant or complainant on an application made in writing. However, no such prayer may be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.

14. Personal presence of the appellant or complainant:-

- (i) The appellant or the complainant, as the case may be, shall be informed of the date of hearing atleast seven clear days before that date.

- (ii) The appellant or the complainant, as the case may be, may at his discretion be present in person or through his duly authorized representative at the time of hearing of the appeal or complaint by the Commission, or may opt not to be present.

- (iii) Where the Commission is satisfied that circumstances exist due to which the appellant or the complainant is being prevented from attending the hearing of the Commission, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

- (iv) The appellant or the complainant, as the case may be, may seek the assistance of any person while presenting his case before the Commission and the person representing him may not be a legal practitioner.

- (v) If an appellant or complainant at his discretion decides not to be present either personally or through his duly authorized representative during the hearing of an appeal or complaint before the Commission, the Commission may pronounce its decision or order in the matter *ex parte*,

15. Date of hearing to be notified:- The Commission shall notify the parties the date and place of hearing of the appeal or complaint in such manner as the Chief Information Commissioner may by general or special order direct.

16. Adjournment of Hearing:- The appellant or the complainant or any of the respondents may, for just and sufficient reasons, make an application for adjournment of the hearing. The Commission may consider the said application and pass such orders as it deems fit.

17. Evidence before the Commission:

In deciding an appeal or a complaint, the Commission may:-

- (i) receive oral or written evidence on oath or on affidavit from concerned person or persons;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;
- (iv) examine or hear in person or receive evidence on affidavit from State Public Information Officer, State Assistant Public Information Officer or such Senior Officer who decided the first appeal or such person or persons against whom the complaint is made as the case may be; or
- (v) examine or hear or receive evidence on affidavit from a third party, or any other person or persons, whose evidence is considered necessary or relevant.

18. Issue of summons

Summons to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar under the authority of the Commission, and it shall be in such form as may be prescribed by the Commission.

19. Conduct of an enquiry

The Commission may entrust an inquiry in connection with any appeal under section 19 (3) of the Act or complaint under section 18 (1) pending before it to the Registrar or any other officer for the purpose and the Registrar or such other officer while conducting the inquiry shall have all the necessary powers including power to —

- (i) summon and enforce attendance of persons;
- (ii) compel production of documents or things;
- (iii) administer oath and to take oral evidence or to receive affidavits or written evidence on solemn affirmation;
- (iv) inspect documents and require discovery of documents; and
- (v) requisition any public record or documents from any public authority.

20. Award of costs by the Commission:

The Commission may award such costs or compensation to the appellant / complainant or a third party that is not a Public Authority within the meaning of the term as defined in section 2 (n) of the Act as it deems fit having regard to the facts and circumstances of the case.

21. Communication of decisions and Orders:- (i) Every decision or order of the Commission shall be signed and dated by the Chief Commissioner or Commissioners who have heard the appeal or the complaint or have decided the matter.

(ii) Every decision/order of the Commission may either be pronounced in one of the sittings of the Commission, or may be placed on its web site, or may be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard.

(iii) Every such decision or order, whenever pronounced by a Single Information Commissioner or by a Division Bench or by a Full Bench of three or more Information Commissioners, shall be deemed to be the decision or order by the Commission under the Act.

22. Finality of Decision:

(1) A decision or an order once pronounced by the Commission shall be final.

(2) An appellant or a complainant or a respondent may, however, make an application to the Chief Information Commissioner for special leave to appeal or review of a decision or order of the case and mention the grounds for such a request;

(3) The Chief Information Commissioner on receipt of such a request may consider and decide the matter as he thinks fit.

23. Abatement of an Appeal/Complaint:

The proceedings pending before the Commission shall abate on the death of the appellant or complainant.

CHAPTER-V:

Miscellaneous

24 Seal and Emblem:- The Official Seal and Emblem of the Commission shall be such as the Commission may specify.

25 Language of the Commission:-

- (i) An appeal or a complaint may be filed in English or in Nepali or any official language and all the documents or copies thereof shall also be filed in English or in Nepali or any official language.
- (ii) The proceedings of the Commission shall be conducted in English.

D.K. GAJMER
Chief Information Commissioner

